

## Legal considerations: International remote working

After the success of remote working, made evident during COVID-19, many are now looking at the ways they can make international remote working a more permanent feature of working life. However, it is not without its own complexities. Below, we outline some of the key considerations.

### Employment

UK employment contracts may still apply while an employee is abroad, depending on what the contract says. However, as the employee will be living and working abroad, they may benefit from employment rights in their host country that will replace any less favourable terms in their employment contract. This could lead to day-to-day implications, for example, if the host country has strict limits on working hours or minimum pay rates that are more beneficial for the employee compared to their employment contract, they should be complied with or the employer could face legal action by the employee to enforce the local rights.

Local laws could also affect the employer's ability to terminate the employee's employment while abroad, should it need to.

### Local labour requirements

As well as being aware of local employment laws which the employee might benefit from, the employer should check whether there are any local requirements on them.

For example, this could be a requirement to register the employee with the local authorities as a "posted worker".

Failure to comply with these requirements could lead to fines for the employer.

### Tax, social security and payroll

There could be obligations on the employer to pay local income tax to the host country. For some countries, this will depend on how long the employee is working abroad but for others, there may be local tax obligations from day one of the employee's stay abroad.

Similarly, the employer will need to consider whether social security contributions should be paid in the host country and what should happen to UK national insurance contributions while the employee is out of the country.

If the employee's presence abroad creates a "permanent establishment" for the employer, there could also be corporation tax liabilities for the employer.

Payroll obligations can differ too, with some countries operating a 14-month payroll system, rather than the 12 month system that normally operates in the UK.

Failing to comply with these local requirements could cause the employer payroll issues and lead to claims by the employee for missed payments.

### Immigration

The employee will need to have the right to work in the country they are working from. This sounds obvious but if the employee is not a citizen of that country, they could need a visa before any work can begin.

For employees who are not UK citizens who want to work abroad and then return to the UK, a prolonged absence from the UK may affect their immigration status or long term right to work prospects. If they are an EU citizen, long absences could affect their ability to upgrade their Pre-Settled status to Settled status. Lengthy absences can also impact those who want to apply for or have indefinite leave to remain.

Where an employee loses the right to work in the UK through working abroad for a significant time, but they plan to return to the UK at some point in the future, they may need a work visa — meaning the employer would need to become a sponsor licence holder, with all the responsibilities and costs associated, before they can employ them again in the UK.

### Insurance

Insurance policies should be reviewed to ensure that they provide adequate cover for international remote working arrangements and be extended if they do not provide adequate cover.

### Data protection and security



If an employee who works abroad has a role that involves the processing of personal data, particularly where that role involves cross border data transfers, the employer should consider which data protection regime will apply and seek local advice where appropriate. The employer should ensure that the employee is put in a position where they can comply with any applicable data protection regimes.

Employers may also need to consider whether international remote working puts the business at a higher risk of hacking and cyber fraud. Employers should consider additional safeguards where appropriate.

---

## Intellectual property

If an employee working abroad is going to create any intellectual property as part of their role (and that IP would ordinarily, under UK law, belong to the employer), the employer should review the consequences of intellectual property creation abroad and take appropriate steps to protect their position.

---

## Regulatory

If the employee working abroad is in a regulated role, the employer may need to consider any applicable regulatory requirements in the host country as well as the impact of the employee conducting a regulated role remotely from outside the UK.

All of these points should be considered at the earliest possible stage as they may impact an employer's decision to allow an employee to work remotely from outside the UK. Specialist advice should also be taken to fully understand the implications for international remote working so an informed structure can be put in place to make sure the arrangements remain compliant.

If you have any questions relating to the above, please contact our employment and immigration team [here](#).

---

*Please be aware that this does not constitute professional advice and the position will vary on a case-to case basis. Do not act or refrain from acting upon this information without seeking prior professional advice.*